

INITIAL STATEMENT OF REASONS

April 15, 2004

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Chapter 1248, Statutes of 1990) (Act), created a comprehensive state oil spill program for marine waters. Among its many provisions, the Act authorized the Administrator to create harbor safety committees for the following five harbors: San Diego; Los Angeles/Long Beach; Port Huenum; San Francisco, San Pablo and Suisun Bays; and Humboldt Bay. Each committee is required to develop harbor safety plans for the safe navigation and operation of tankers, barges and other vessels within the harbors. Government Code Section 8670.23.1 also directed the Administrator to adopt regulations and guidelines implementing tug escort requirements for specified harbors.

Following the enactment of the above-cited legislation, and the establishment of the Office of Spill Prevention and Response (OSPR), regulations governing tug escort requirements were drafted to clarify the guidelines for tug escorts at each individual harbor, to address the peculiarities of local waters that call for special precautionary measures. These sections establish clear and consistent guidelines to those parties either affected by their adoption or charged with their enforcement. These regulations were necessary to implement, interpret and make specific Government Code Sections 8670.17.2 and 8670.23.1.

The proposed regulation amendments are needed to implement work hour, manning and training requirements for tug escort crews performing the required escort and assist operations, to enhance the safety of the individuals involved in tug escorting, and to improve the efficiency of tug escort operations.

The specific purpose for each adoption, amendment, or repeal contained in these proposed regulations is set forth below:

Section 851.23. Requirements for Escort Tug; Bollard Pull Testing and Certification, Equipment Requirements, Crew and Training Standards

The title has been amended to better reflect the proposed content of this section.

Subsection (c) has been amended to outline specific work hour and manning requirements. This is necessary to ensure that an adequate number of crew is available to safely and effectively perform their tug-escort duties.

Subsection (c)(1) has been added to reference federal requirements in regard to hours of work. Further, "working hours" and "hours of rest" are also clarified to facilitate

compliance with the requirements. Long hours on duty can lead to fatigue which impairs judgment and quick response actions. These amendments are necessary to reduce the chance of fatigue induced human error during an escort operation.

Subsection (c)(2) has been added to specify the number, make-up and level of readiness of the escort tug crewmembers. This is necessary to ensure that during an escort transit there would be a sufficient number of line-handling crew to respond in an emergency, while still providing crew to operate the vessel and monitor the engine room.

Subsection (c)(3) has been added to allow the Administrator to review the equipment and crew on an escort tug. This is necessary to assure compliance with the requirements of this subsection.

Subsection (d)(1) has been added to require specific elements in a training and education program for both tug masters and crew. This is necessary to ensure that the tug escort duties can be effectively performed, to enhance the safety of the individuals involved in tug escorting, and to improve the efficiency of tug escort operations. The previous language in Subsection 851.23(c)(1) simply required that that crew members be certified pursuant to Federal law. This was determined to be insufficient because the U.S. Coast Guard certification/licensing requirements do not specifically address tank vessel escorting crews. Specifying the types and frequency of the required training is necessary to assure that the tug escort crews can fulfill their role safely and effectively.

Subsection (d)(2) has been added to allow training required by the U.S. Coast Guard to be used to satisfy specific training elements in Subsection (d)(1). This is necessary to recognized existing training completed as described, and to not duplicate effort by requiring training that has already been completed.

Subsection (d)(3) has been added to specify how companies demonstrate compliance with the training elements in Subsection (d)(1). This is necessary so that the Administrator can ensure that the training being conducted meets the minimum standards set forth in Subsection (d)(1).

DOCUMENTS RELIED UPON

Technical, theoretical or empirical studies or reports relied upon:

International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers 95 (STCW).

BUSINESS IMPACT

The OSPR has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The proposed amendments codify current practices in Los Angeles and Long Beach Harbors and will not result in significant adverse economic impact on businesses.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed amendments do not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES

No alternative which was considered by the OSPR would be more effective than or equally as effective as and less burdensome to affected private persons than the proposed amended regulations

COMPLIANCE WITH GOVERNMENT CODE SECTIONS 11346.2(b)(6), 11346.5, and 11349(f)

The regulations, which implement the tug escort requirements for Los Angeles and Long Beach Harbors, do not conflict with Federal statutes or regulations.